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January 29, 2020

TO: Mr. Ben Ficks
Chief Financial Officer (acting)
U.S. Nuclear Regulatory Commission
Washington DC 20555-0001

Dear Mr. Ficks:

On January 21, 2020, RhinoCorps received an invoice from the NRC for pre-submittal activities related to physical security modeling and simulation software (Docket #: 99902081; EPID #: L-2019-TOP-0045). RhinoCorps had requested a meeting with the NRC to understand what NRC process it could use to obtain an NRC "approved for use" review and approval for its vulnerability assessment tool (Simajin/Vanguard) that is already employed at all DOE/NNSA Cat I sites. The meeting was set up by the NRC staff however during the meeting the staff could not point to a regulation or regulatory process the vulnerability assessment tool would fit into. Unfortunately, RhinoCorps did not understand or receive information from the NRC before or after the meeting that the NRC would invoice them for the NRC staff time spent. In the many prior meetings and conversations with NRC/NSIR personnel regarding RhinoCorps' tool capabilities and employment we have never received an invoice.

RhinoCorps does not believe it should be invoiced for this NRC staff activity. We have reviewed NRC's regulations on fees, 10 CFR Part 170, and believe that RhinoCorps' request and subsequent meeting with the NRC staff meets one of the exemption requirements in 10 CFR 170.11. Therefore, RhinoCorps is requesting an exemption pursuant to 10 CFR 170.11(a)(1)(ii) and 10 CFR 170.11(a)(13).

As background, in 2016, the NRC Commission directed the staff in SRM-SECY-16-0073 to evaluate how vulnerability assessments could be used to evaluate the effectiveness of licensee protective strategies, and whether credit could be given for operator actions. Currently the NRC has not endorsed or approved for use a specific vulnerability assessment tool. RhinoCorps directly supports the Department of Energy (DOE) National Nuclear Security Agency (NNSA) Office of Security Operations and Programmatic Planning (contract DE-NA0003782) by providing technical and computer simulation support using RhinoCorps Simajin/Vanguard tool suite to sites across the Nuclear Security Enterprise as well as several NRC licensees using the same vulnerability assessment tools.

In several meetings between NRC management and the nuclear industry Security Working Group in 2019, discussion on crediting additional operating actions and the use of vulnerability assessment tools has taken place. Additionally, RhinoCorps has provided training for NRC Headquarters staff and is scheduled to provide training for NRC Regional inspectors on how its vulnerability assessment tool works, how to effectively auditor the results, and the information it can provide. NRC staff has expressed interest in reviewing the tool in more detail and, based on this interest, RhinoCorps requested a meeting with the NRC staff to discuss what NRC process it could use to obtain an NRC “approved for use” review and approval.

RhinoCorps requests that the NRC's fees for preparing for and conducting the meeting on October 31, 2019, be withdrawn, and that RhinoCorps be granted a fee waiver pursuant to the provisions of 10 CFR 170.11. The meeting and request for NRC review process information meets the exemption requirement in 10 CFR 170.11(a)(1)(ii) in that the initial discussion on vulnerability assessment tool review was made at the Office Director level (NSIR) and will “assist the NRC in generic regulatory improvements or efforts.” In this case, NRC review and “approval for use” will improve the effectiveness and efficiency of licensee physical security programs and, more importantly, NRC Headquarters and Regional oversight functions. In addition, the NRC staff can use the information as it develops its own guidance (NRC staff has discussed a NUREG) related to how to use vulnerability assessment tools and what attributes the tools should have.

If you have any questions or require additional information, please contact me at mtalbot@rhinocorps.com or call me at (703) 850-8281.

Sincerely,

A handwritten signature in black ink, appearing to read 'Matthew Talbot', with a stylized, cursive script.

Matthew Talbot
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(703) 850-8281